



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/169224

PRELIMINARY RECITALS

Pursuant to a petition filed October 7, 2015, under Wis. Admin. Code, §HA 3.03(1), to review a decision by Milwaukee Enrollment Services to reduce FoodShare benefits (FS), a hearing was held on October 28, 2015, by telephone.

The issue for determination is whether petitioner's FS were reduced correctly effective October 1, 2015.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

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Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]
Milwaukee Enrollment Services
1220 W. Vliet Street
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner completed an FS renewal in September, 2015. She verified income at a new job with [REDACTED]. The job started in mid-September with the first pay check on October 2, 2015.
3. The agency budgeted the [REDACTED] income. As a result \$16 in FS were issued for October. However, a notice dated October 2, 2015 informed petitioner that she would receive \$357 FS in October. The reason for the notice was that the [REDACTED] income was not confirmed in the system. When it was confirmed the correct FS allotment for October was \$16.

DISCUSSION

FS allotments are based upon a household's prospective income, meaning that the agency must estimate the household's income for the month in which FS are to be received. FS Handbook, Appendix 4.1.1. Income from the past 30 days typically is used to make the estimate, but if a job is new workers are directed to use employer statements or Employer Verification Forms. Handbook, App. 1.2.4.2.

While it is true that the agency usually uses income from the month before to determine the current month's FS amount, the prior month's income is meant to be an estimate of the current month's income. In this case petitioner's October income was able to be anticipated by using the employer statement showing her wage and hours to be worked. Thus, since petitioner would receive a full month's income in October, the agency correctly used the new income in determining the October FS amount. It is unfortunate that the agency issued an incorrect notice on October 2, but if the \$357 in FS had been issued, it likely would have resulted in an overpayment because overpayments must be recovered even when caused by agency error.

CONCLUSIONS OF LAW

The agency correctly used petitioner's new employment income to determine her October FS when the new job started in September and petitioner would receive a full month's income in October.

THEREFORE, it is

ORDERED

That the petition for review is hereby dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 30th day of October, 2015

\sBrian C. Schneider
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on October 30, 2015.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability